

REMARKS

Status of the Application

Claims 1-7 and 9-20 are pending. All claims are rejected under Section 103. With this preliminary amendment, applicants have replaced claims 1-7 and 9-20 with new claims 21-25.

New Claims

Claim 21

New independent claim 21 requires that the “the total height of the one or more inner support posts is equal to the total height of the corresponding set of vertically aligned outer spacer sleeves and the total thickness of the bottom panels of the two or more trays...” In other words, the inner support post(s) extend from the bottom cap, through the outer spacer sleeves and the tray openings, to the underside of the top cap. As a consequence of this structural limitation, the inner support posts bear the load of any additional units stacked on top of the top cap.

Support for this “total height” limitation can be found in the specification as filed at paragraph 0033 (later amended to correct a typographical error), which is quoted herein in its entirety:

“The length of the support posts is a function of the length of the spacer sleeves 16 and number of trays 12. The support posts 18 must be long enough to extend

through more than one set of spacer sleeves 16 in order to hold multiple trays 12 together. For example, in the four layer system illustrated in the figures and described in detail below, two sets of support posts 18a, 18b are used. The bottom set of support posts 18a are long enough to extend through two and one-half spacer sleeves 16, and the top set of support posts 18b are long enough to extend through about one and one-half spacer sleeves 16.”

Paragraph 0039 explains the purpose of this structural limitation: “The system is strong enough ... to withstand the weight of one or more units stacked on top.”

None of the references of record in this case teach this “total height” limitation, and none teach inner support posts that bear the load of any additional units stacked on top. To address a few of the more pertinent references:

Jourdain 3,741,404 teaches in Figures 1-3 an inner support post 2 that has a total height greater than the height of the outer sleeves 3 and the tray thicknesses so that the inner posts actually extend above the topmost tray. Jourdain teaches in Figure 4 inner support posts having a total height less than the height of the outer sleeves 3 and the tray thicknesses. (Jourdain Figure 4 lacks other claim 21 limitations, such as “openings disposed in and extending through” the trays.)

Kellogg 4,050,386 does not teach both inner support posts and outer spacer sleeves, much

less inner support posts having a total height equal to the total height of the outer spacer sleeves and the tray thicknesses.

Similarly, Hepp 4,579,233 does not teach both inner support posts and outer spacer sleeves, much less inner support posts having a total height equal to the total height of the outer spacer sleeves and the tray thicknesses.

Kawasaki 5,125,520 teaches inner posts 3 and outer sleeves 4, but the inner posts do not extend through openings in the trays 8.

#### Claim 22

Dependent claim 22 limits the number of inner support posts at each corner of the unit to one. This limitation is supported in the specification as filed at, for example, paragraph 0026, which states that “Typical modular packaging systems 10 include four post, five post, six post, seven post and eight post layouts, as shown in Figures 11-15...” Figures 11-15 are top views of trays having four, five, six and seven openings respectively. The implication of paragraph 0026 and Figures 11-15 is that a system comprising trays with “n” openings would require as few as “n” inner support posts - one per tray opening - regardless of the number of trays or the total height of the system 10.

#### Claim 23

Dependent claim 23 includes all the limitations of base claim 21 and adds the further limitations that “the number of the one or more inner supports posts is two or more, each inner

support post comprises opposing ends, the inner support posts are aligned end to end, and facing inner support post ends abut each other inside an outer spacer sleeve.” Support for these limitations is found in the embodiment described in paragraphs 0033 to 0036 and illustrated in Figure 8 (see supports posts 18a and 18b).

None of the cited references teach this limitation.

Jourdain teaches three inner posts, but they do not abut each other.

Kellogg teaches a post 15 having a shoulder 15c that abuts a shelf 11, not another post.

Hepp 4,579,233 teaches a post 31 that engages a socket 42.

Sikora teaches a single inner post 3.

UK patent application GB 2,232,344A teaches posts having shoulders 21 that abut the underside of a shelf.

#### Claim 24

Dependent claim 24 adds the further limitation that “the outer spacer sleeves comprise two orthogonal longitudinal sides that abut adjacent side panels of the top and bottom caps.” Support for this limitation can be found in the specification as filed in Figure 9.

Jourdain teaches outer spacer sleeves 3 having orthogonal sides (see Fig. 3), but Jourdain does not teach a top cap or bottom cap, much less top and bottom cap side panels, and so Jourdain does not teach that two orthogonal sides of each outer spacer sleeve abuts adjacent side panels.

Kellogg teaches posts 15 that appear to abut side panels 12a extending downwardly from a top cap 12, and tongues 15a that appear to abut downwardly extending side panels 10a of a bottom tray 10. But as indicated above with respect to claim 21, Kellogg does not teach both inner support posts and outer spacer sleeves. It would not have been obvious to one skilled in the art to combine Kellogg with any reference to achieve the invention of claim 24 because, among other reasons, there is no suggestion or motivation in Kellogg to do so.

Hepp's posts do not have orthogonal sides.

Kawasaki's posts do not have orthogonal sides.

Teixidor Casanovas 6,378,764 teaches a post having orthogonal sides abutting an upwardly extending side panel. However, Teixidor Casanovas does not teach many of the features of claim 21, including a top cap, a bottom cap, trays with openings, vertically aligned outer spacer sleeves, inner support posts that extend through vertically aligned outer spacer sleeves, etc.

#### Secondary Indicia of Non-obviousness

##### Applicant's Invention is Experiencing Significant Commercial Success

Evidence of secondary considerations may often be the most probative and cogent evidence on non-obviousness in the record. It may often establish that an invention appearing to have been obvious in light of the prior art was not. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530, 1538-40, 218 USPQ 2d 879 (Fed. Cir. 1893).

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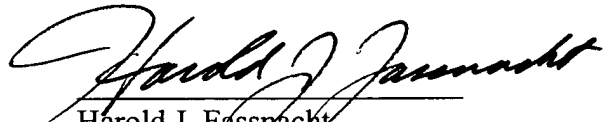
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As further evidence of the non-obviousness of applicants' invention, applicants submit the declaration of Mr. Steven C. Gendreau (attached), attesting to the substantial commercial success of the product. As attested to by Mr. Gendreau, "Starting in 2003 with the development of the SONOPOP™ packaging system, Sonoco has seen sales associated with its SONOPOP™ packaging system grow significantly [sic] from \$0 to approximately [sic] \$1mm in sales in 2004 to over \$10mm in sales during 2005."

Summary

For at least these reasons, applicants submit that new claims 21-25 are allowable over the prior art of record. Applicants respectfully request allowance of same.

Respectfully submitted,

  
Harold J. Fassnacht  
Reg. No. 35,507

CLAUSEN MILLER, P.C.  
10 S. LaSalle Street - Suite 1600  
Chicago, Illinois 60603  
Telephone: 312-606-7674

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